

House File 2443 - Introduced

HOUSE FILE 2443
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 668)

A BILL FOR

1 An Act relating to the delinquency jurisdiction of the juvenile
2 court and the confidentiality and disclosure of certain
3 juvenile court records.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 12, Code 2018, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *d.* The violation of section 716.8, which is
4 committed by a child.

5 Sec. 2. Section 232.2, Code 2018, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 32A. "*Juvenile diversion program*" means
8 an organized effort to coordinate services for a child by an
9 intake officer that results in a dismissal of the complaint
10 alleging the commission of a delinquent act and does not result
11 in an informal adjustment agreement involving juvenile court
12 services or the filing of a delinquency petition.

13 Sec. 3. Section 232.8, subsection 2, Code 2018, is amended
14 to read as follows:

15 2. a. A case involving a person charged in a court other
16 than the juvenile court with the commission of a public offense
17 not exempted by law from the jurisdiction of the juvenile
18 court and who is within the provisions of [subsection 1](#) of this
19 section shall immediately be transferred to the juvenile court.
20 The transferring court shall order a transfer and shall forward
21 the transfer order together with all papers, documents and a
22 transcript of all testimony filed or admitted into evidence
23 in connection with the case to the clerk of the juvenile
24 court. The jurisdiction of the juvenile court shall attach
25 immediately upon the signing of an order of transfer. From the
26 time of transfer, the custody, shelter care and detention of
27 the person alleged to have committed a delinquent act shall be
28 in accordance with the provisions of [this chapter](#) and the case
29 shall be processed in accordance with the provisions of this
30 chapter.

31 b. Upon completion of the transfer to juvenile court,
32 the court shall file an order dismissing the charge in the
33 transferring court and directing the clerk of court to seal all
34 records of the charge initiated in the transferring court.

35 Sec. 4. Section 232.44, subsection 1, paragraph a, Code

1 2018, is amended to read as follows:

2 *a.* A hearing shall be held within ~~forty-eight hours,~~
3 ~~excluding Saturdays, Sundays, and legal holidays,~~ two working
4 days of the time of the child's admission to a shelter care
5 facility, and within ~~twenty-four hours, excluding Saturdays,~~
6 ~~Sundays, and legal holidays,~~ one working day of the time of a
7 child's admission to a detention facility. If the hearing is
8 not held within the time specified in this paragraph, except
9 for good cause shown, the child shall be released from shelter
10 care or detention.

11 Sec. 5. Section 232.147, Code 2018, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 1A. Official juvenile court records
14 in all cases except those alleging delinquency shall be
15 confidential and are not public records. Confidential records
16 may be inspected and their contents shall be disclosed to the
17 following without court order, provided that a person or entity
18 who inspects or receives a confidential record under this
19 subsection shall not disclose the confidential record or its
20 contents unless required by law:

21 *a.* The judge and professional court staff, including
22 juvenile court officers.

23 *b.* The child and the child's counsel.

24 *c.* The child's parent, guardian or custodian, court
25 appointed special advocate, and guardian ad litem, and
26 the members of the child advocacy board created in section
27 237.16 or a local citizen foster care review board created in
28 accordance with section 237.19 who are assigning or reviewing
29 the child's case.

30 *d.* The county attorney, the county attorney's assistants, or
31 the attorney representing the state in absence of the county
32 attorney.

33 *e.* An agency, individual, association, facility, or
34 institution responsible for the care, treatment, or supervision
35 of the child pursuant to a court order or voluntary placement

1 agreement with the department of human services, juvenile
2 officer, or intake officer.

3 *f.* A court, court professional staff, and adult probation
4 officers in connection with the preparation of a presentence
5 report concerning a person who prior thereto had been the
6 subject of a juvenile court proceeding.

7 *g.* The child's foster parent or an individual providing
8 preadoptive care to the child.

9 *h.* The state public defender.

10 *i.* The statistical analysis center for the purposes stated
11 in section 216A.136.

12 *j.* The department of human services.

13 Sec. 6. Section 232.147, subsections 2 and 3, Code 2018, are
14 amended to read as follows:

15 2. Official juvenile court records in all cases alleging
16 the commission of a delinquent act except those alleging the
17 commission of a delinquent act that would be a forcible felony
18 if committed by an adult shall be confidential and are not
19 public records. Unless an order sealing such confidential
20 records in a delinquency proceeding has been entered pursuant
21 to [section 232.150](#), confidential records may be inspected and
22 their contents shall be disclosed to the following without
23 court order, provided that a person or entity who inspects or
24 receives a confidential record under this ~~section~~ subsection
25 shall not disclose the confidential record or its contents
26 unless required by law:

27 *a.* The judge and professional court staff, including
28 juvenile court officers.

29 *b.* The child and the child's counsel.

30 *c.* The child's parent, guardian or custodian, court
31 appointed special advocate, and guardian ad litem, and
32 the members of the child advocacy board created in section
33 237.16 or a local citizen foster care review board created in
34 accordance with [section 237.19](#) who are assigning or reviewing
35 the child's case.

1 ~~d. The county attorney, and the county attorney's~~
2 ~~assistants, or the attorney representing the state in absence~~
3 ~~of the county attorney.~~

4 ~~e. An agency, individual, association, facility, or~~
5 ~~institution which has custody of the child, or is legally~~
6 ~~responsible for the care, treatment, or supervision of the~~
7 ~~child, including but not limited to the department of human~~
8 ~~services pursuant to a court order or voluntary placement~~
9 ~~agreement with the department of human services, juvenile court~~
10 ~~officer, or intake officer.~~

11 ~~f. A court, court professional staff, and adult probation~~
12 ~~officers in connection with the preparation of a presentence~~
13 ~~report concerning a person who prior thereto had been the~~
14 ~~subject of a juvenile court delinquency proceeding.~~

15 ~~g. The child's foster parent or an individual providing~~
16 ~~preadoptive care to the child.~~

17 ~~h.~~ g. The state public defender.

18 h. The department of human services.

19 i. The department of corrections.

20 j. A judicial district department of correctional services.

21 k. The board of parole.

22 l. The superintendent or the superintendent's designee of
23 the school district for the school attended by the child or
24 the authorities in charge of an accredited nonpublic school
25 attended by the child.

26 m. A member of the armed forces of the United States who is
27 conducting a background investigation of an individual pursuant
28 to federal law.

29 n. The statistical analysis center for the purposes stated
30 in [section 216A.136](#).

31 o. A state or local law enforcement agency.

32 p. The alleged victim of the delinquent act.

33 q. An individual involved in the operation of a juvenile
34 diversion program, who may also receive from a state or local
35 law enforcement agency police reports and related information

1 that assist in the operation of the juvenile diversion program.

2 3. Official juvenile court records containing a petition
3 or complaint alleging the commission of a delinquent act that
4 would be a forcible felony if committed by an adult shall be
5 public records subject to a confidentiality order under section
6 232.149A or sealing under [section 232.150](#). However, such
7 official records shall not be available to the public or any
8 governmental agency through the internet or in an electronic
9 customized data report unless the child has been adjudicated
10 delinquent in the matter. However, such official juvenile
11 court records shall be disclosed through the internet or in
12 an electronic customized data report prior to the child being
13 adjudicated delinquent to the following without court order:

14 a. The judge and professional court staff, including
15 juvenile court officers.

16 b. The child and the child's counsel or guardian ad litem.

17 c. The child's parent, guardian or custodian,
18 court-appointed special advocate, guardian ad litem, and
19 the members of the child advocacy board created in section
20 237.16 or a local citizen foster care review board created in
21 accordance with section 237.19 who are assigning or reviewing
22 the child's case.

23 ~~e.~~ d. The county attorney, and the county attorney's
24 assistants, or the attorney representing the state in absence
25 of the county attorney.

26 ~~d.~~ e. A court, court professional staff, and adult
27 probation officers in connection with the preparation of a
28 presentence report concerning a person who prior thereto had
29 been the subject of a juvenile court proceeding.

30 f. An agency, individual, association, facility, or
31 institution responsible for the care, treatment, or supervision
32 of the child pursuant to a court order or voluntary placement
33 agreement with the department of human services, juvenile court
34 officer, or intake officer.

35 ~~e.~~ g. A state or local law enforcement agency.

1 ~~f.~~ h. The state public defender.

2 ~~g.~~ i. The statistical analysis center for the purposes
3 stated in [section 216A.136](#).

4 ~~h.~~ j. The department of human services.

5 ~~i.~~ k. The department of corrections.

6 ~~j.~~ l. A judicial district department of correctional
7 services.

8 ~~k.~~ m. The board of parole.

9 n. The superintendent or the superintendent's designee of
10 the school district for the school attended by the child or
11 the authorities in charge of an accredited nonpublic school
12 attended by the child.

13 o. A member of the armed forces of the United States who is
14 conducting a background investigation of an individual pursuant
15 to federal law.

16 p. The alleged victim of the delinquent act.

17 q. An individual involved in the operation of a juvenile
18 diversion program, who may also receive from a state or local
19 law enforcement agency police reports and related information
20 that assist in the operation of the juvenile diversion program.

21 Sec. 7. Section 232.147, subsection 16, Code 2018, is
22 amended to read as follows:

23 16. A provision in [this section](#) or [section 232.149A](#) shall
24 not limit or prohibit individuals from performing any duties
25 or responsibilities as required by [section 123.47B](#), [124.415](#),
26 [232.47](#), ~~or~~ [232.49](#), or [321J.2B](#).

27 Sec. 8. Section 232.149, subsection 2, Code 2018, is amended
28 to read as follows:

29 2. Records and files of a criminal or juvenile justice
30 agency, an intake officer, or a juvenile court officer
31 concerning a child involved in a delinquent act are
32 confidential. The records are subject to sealing under section
33 232.150 unless the juvenile court waives its jurisdiction over
34 the child so that the child may be prosecuted as an adult for
35 a public offense. A criminal or juvenile justice agency may

1 disclose to individuals involved in the operation of a juvenile
2 diversion program police reports and related information that
3 assist in the operation of the juvenile diversion program.

4 Sec. 9. Section 232.149, Code 2018, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 6. Notwithstanding subsections 2 and 5,
7 information from such records and files may be disclosed by
8 a juvenile justice agency, intake officer, or juvenile court
9 officer, when making referrals for placement of the child, to
10 an agency, individual, association, facility, or institution
11 that will have physical custody of the child, or will become
12 responsible for the care, treatment, or supervision of the
13 child upon placement.

14 Sec. 10. Section 232.150, subsection 4, paragraph a, Code
15 2018, is amended to read as follows:

16 a. All agencies and persons having custody of records which
17 are named therein, shall send such records to the court issuing
18 the order. Maintenance or destruction of these records shall
19 be prescribed by the state court administrator.

20 Sec. 11. Section 232.151, Code 2018, is amended to read as
21 follows:

22 **232.151 Criminal penalties.**

23 1. Any person who knowingly discloses, receives, or makes
24 use or permits the use of information derived directly or
25 indirectly from the records concerning a child referred to in
26 sections 232.147 through 232.150, except as provided by those
27 sections or [section 13B.4B, subsection 2](#), paragraph "c", shall
28 be guilty of a serious misdemeanor.

29 2. This section does not apply to a person or entity
30 authorized to receive or inspect the contents of confidential
31 official juvenile court records, or the confidential records
32 of a criminal or juvenile justice agency, juvenile court
33 officer, or juvenile intake officer, when such person or entity
34 discloses such information to another person or entity also
35 authorized to receive or inspect the confidential information,

1 or discloses to a witness or other interested person the date,
2 time, and nature of a court proceeding concerning the child
3 in order to secure the appearance of the witness or other
4 interested person at the proceeding.

5 Sec. 12. Section 692.2, subsection 1, paragraph b, Code
6 2018, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (7) Absent an order determining official
8 juvenile court records to be public records entered pursuant
9 to section 232.149B, adjudication and custody data that are
10 deemed or ordered to be confidential pursuant to section
11 232.147, 232.149, or 232.149A, or that are sealed by court
12 order pursuant to section 232.150, shall not be provided by the
13 department.

14 Sec. 13. Section 803.1, Code 2018, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 5. If it is determined that charges were
17 erroneously filed in district court against an individual under
18 the age of eighteen and the juvenile court holds exclusive
19 jurisdiction, the court shall file an order dismissing the
20 charge in district court and directing the clerk of court to
21 seal all records of the charge initiated in district court.

22 Sec. 14. Section 803.6, subsection 4, Code 2018, is amended
23 to read as follows:

24 4. If after the hearing the court transfers jurisdiction
25 over the defendant to the juvenile court for the alleged
26 commission of the public offense, the court shall forward the
27 transfer order together with all papers, documents, and a
28 transcript of all testimony filed or admitted into evidence in
29 connection with the case to the clerk of the juvenile court in
30 the same manner as provided in section 232.8, subsection 2, and
31 the clerk shall seal all records initiated in district court.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to the delinquency jurisdiction of the

1 juvenile court and the confidentiality and disclosure of
2 certain juvenile court records.

3 DELINQUENT ACTS — TRESPASS. Current law defines a
4 delinquent act as the violation of any state law or local
5 ordinance which would constitute a public offense if committed
6 by an adult. The bill expands the definition of a delinquent
7 act to include the violation of Code section 716.8 (relating
8 to trespassing). Despite adult violations being treated as
9 scheduled violations, misdemeanors, or felonies, all trespass
10 violations by children would be treated as delinquent acts in
11 the juvenile court.

12 DETENTION OR SHELTER CARE HEARING. Under current law,
13 a hearing for a child who is alleged to have committed a
14 delinquent act is required to be held within 48 hours of the
15 time of the child's admission to a shelter care facility,
16 and within 24 hours of the time of a child's admission to a
17 detention facility, excluding Saturdays, Sundays, and legal
18 holidays. The bill amends current law to provide that a
19 hearing is required to be held within two working days of
20 the time of the child's admission to a shelter care facility
21 and within one working day of a child's admission to a
22 detention facility. If the hearing is not held within the time
23 specified, except for good cause shown, the child shall be
24 released from shelter care or detention.

25 OFFICIAL JUVENILE COURT RECORDS OTHER THAN JUVENILE
26 DELINQUENCY RECORDS. The bill creates new Code section
27 232.147(1A) to provide that official juvenile court records
28 in all cases except those alleging delinquency shall be
29 confidential and are not public records. However, the bill
30 provides that such confidential records shall be disclosed,
31 without a court order, to judges and professional court staff;
32 the child and the child's counsel; the child's parent, guardian
33 ad litem, and the members of a reviewing child advocacy board
34 or a local citizen foster care review board; the county,
35 attorney, the county attorney's assistants, or the attorney

1 representing the state in absence of the county attorney; an
2 agency, individual, association, facility, or institution
3 which has custody of or is legally responsible for the child;
4 the court and court-related professional staff in connection
5 with the preparation of a presentence report; the child's
6 foster parent or an individual providing preadoptive care to
7 the child; the state public defender; the statistical analysis
8 center; and the department of human services.

9 JUVENILE DELINQUENCY RECORDS OTHER THAN FORCIBLE FELONY
10 RECORDS. Current Code section 232.147(2) provides that
11 official juvenile court records are confidential and therefore
12 are not public records except in cases alleging the commission
13 of a delinquent act that would be a forcible felony if
14 committed by an adult. Under Code section 702.11, a forcible
15 felony is any felonious child endangerment, assault, murder,
16 sexual abuse, kidnapping, robbery, human trafficking, arson
17 in the first degree, or burglary in the first degree. Unless
18 an order sealing such confidential records in a delinquency
19 proceeding has been entered under Code section 232.150,
20 confidential records may be inspected, without court order,
21 to certain persons or entities. The bill amends this current
22 law to apply only to official juvenile court records alleging
23 delinquency other than those alleging the commission of a
24 delinquent act that would be a forcible felony if committed by
25 an adult. The bill provides that unless a sealing order has
26 been entered under Code section 232.150, these confidential
27 records may be inspected, without court order, by judges and
28 professional court staff; the child and the child's counsel;
29 the child's parent, guardian or custodian, court-appointed
30 special advocate, guardian ad litem, and the members of the
31 child advocacy board created in Code [section 237.16](#) or a local
32 citizen foster care review board created in accordance with
33 Code section 237.19 who are assigning or reviewing the child's
34 case; the county attorney, the county attorney's assistants, or
35 the attorney representing the state in absence of the county

1 attorney; an agency, individual, association, facility, or
2 institution which has custody of or is legally responsible
3 for the child; the court and court-related professional staff
4 in connection with the preparation of a presentence report;
5 a state or local law enforcement agency; the state public
6 defender; the statistical analysis center; the department of
7 human services; the department of corrections; a judicial
8 district department of correctional services; the board of
9 parole; the superintendent or the superintendent's designee of
10 the school district for the school attended by the child or
11 the authorities in charge of an accredited nonpublic school
12 attended by the child; a member of the armed forces of the
13 United States who is conducting a background investigation
14 of an individual pursuant to federal law; the alleged victim
15 of the delinquent act; and individuals operating juvenile
16 detention programs.

17 JUVENILE DELINQUENCY RECORDS INVOLVING FORCIBLE FELONIES.
18 Current law provides in Code section 232.147(3) that unless
19 subject to a confidentiality order under Code section 232.149A
20 or a sealing order under Code section 232.150, official
21 juvenile court records containing a petition or complaint
22 alleging the commission of a delinquent act that would be a
23 forcible felony if committed by an adult are public records.
24 However, current law provides that such official records
25 are not available to the public or any governmental agency
26 through the internet or in an electronic customized data
27 report unless the child has been adjudicated delinquent in
28 the matter. Nevertheless, current law provides that official
29 juvenile court records may be disclosed without a court order
30 through the internet or in an electronic customized data report
31 prior to the child being adjudicated delinquent to judges and
32 professional court staff; the child's counsel or guardian
33 ad litem; the county attorney and the county attorney's
34 assistants; the court and court-related professional staff
35 in connection with the preparation of a presentence report;

1 a state or local law enforcement agency; the state public
 2 defender; the statistical analysis center; the department of
 3 human services; the department of corrections; a judicial
 4 district department of correctional services; and the board
 5 of parole. The bill expands the list to include the child;
 6 the child's parent, guardian or custodian, court-appointed
 7 special advocate, the child's parent, guardian or custodian,
 8 court-appointed special advocate, guardian ad litem, and the
 9 members of the child advocacy board created in Code section
 10 237.16 or a local citizen foster care review board created
 11 in accordance with Code section 237.19 who are assigning or
 12 reviewing the child's case; the attorney representing the state
 13 in absence of the county attorney; an agency, individual,
 14 association, facility, or institution responsible for the care,
 15 treatment, or supervision of the child pursuant to a court
 16 order or voluntary placement agreement with the department of
 17 human services, juvenile court officer, or intake officer;
 18 the superintendent or the superintendent's designee of the
 19 school district for the school attended by the child or
 20 the authorities in charge of an accredited nonpublic school
 21 attended by the child; a member of the armed forces of the
 22 United States who is conducting a background investigation of
 23 an individual pursuant to federal law; individuals involved in
 24 operating juvenile diversion programs, who may also receive
 25 police reports and related information that assist in the
 26 operation of a juvenile diversion program; and the alleged
 27 victim of the delinquent act.

28 MISCELLANEOUS DUTIES RELATING TO CONFIDENTIAL RECORDS.
 29 Current law provides that a provision within Code section
 30 232.147 or Code section 232.149A shall not limit or prevent
 31 individuals from performing any duties or responsibilities
 32 as required by Code section 124.415 (parental and school
 33 notifications — persons under 18 years of age in possession of
 34 controlled substances), 232.47 (findings for adjudication), or
 35 232.49 (physical and mental examinations). The bill expands

1 current law to include additional provisions relating to the
2 performance of duties or responsibilities as required by Code
3 section 123.47B (notifying a parent and school of a person
4 under 18 years of age in possession of or consuming alcoholic
5 liquor, wine, or beer) or 321J.2B (parental and school
6 notification of a person under 18 years of age operating while
7 intoxicated).

8 MAINTENANCE OR DESTRUCTION OF SEALED RECORDS. Code section
9 232.150 currently provides that on entry of a sealing order,
10 all agencies and individuals having custody of juvenile records
11 are required to send such records to the court issuing the
12 order. The bill provides that maintenance or destruction
13 of these records are to be prescribed by the state court
14 administrator.

15 SEALING OF CERTAIN DISTRICT COURT RECORDS. The bill
16 amends Code section 803.1 concerning the state's criminal
17 jurisdiction and juveniles. The bill requires the court, if it
18 is determined that charges were erroneously filed in district
19 court on an individual under the age of 18 and the juvenile
20 court holds exclusive jurisdiction, to dismiss the charge in
21 district court and to direct the clerk of court to seal all
22 records initiated in district court.

23 The bill amends Code section 803.6 concerning the transfer
24 of jurisdiction to the juvenile court. Under current law,
25 the court may hold a hearing on whether a juvenile who is
26 alleged to have committed a criminal offense excluded from
27 the jurisdiction of the juvenile court under Code section
28 232.8(1)(c) should be transferred to the juvenile court for
29 adjudication and disposition as a juvenile. If after the
30 hearing the court transfers jurisdiction over the juvenile to
31 the juvenile court for the alleged commission of the public
32 offense, the court is required to forward the transfer order
33 together with all papers, documents, and a transcript of all
34 testimony filed or admitted into evidence in connection with
35 the case to the clerk of the juvenile court in the manner

1 provided in Code section 232.8(2). The bill requires the clerk
2 to seal all records initiated in district court in this type
3 of case.

4 PUBLIC ACCESS TO CRIMINAL HISTORY DATA. Under current law,
5 any person may request the criminal history data of another
6 person from the department of public safety. The bill provides
7 absent an order determining official juvenile court records to
8 be public records is entered pursuant to Code section 232.149B,
9 adjudication and custody data that are deemed, or ordered to
10 be, confidential or that are sealed by court order, shall not
11 be provided by the department.